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WYOMING MEDICAL CENTER

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

SHELBY LYNN HANSEN,

PLAINTIFF,

v.

WYOMING MEDICAL CENTER, INC., A
WYOMING CORPORATION, EMERGENCY
MEDICAL PHYSICIANS, P.C., A WYOMING
CORPORATION, AND JONATHAN BINDER, M.D.

DEFENDANTS.

Civil No. 14 CV 138-S

**WYOMING MEDICAL CENTER’S MOTION TO DISMISS FOR LACK OF SUBJECT
MATTER JURISDICTION AND INSUFFICIENT SERVICE OF PROCESS**

Defendant Wyoming Medical Center (“WMC”), by and through counsel White & Steele, P.C., and pursuant to Fed. R. Civ. P. 12(b), 12(h)(3), and U.S.D.C.L.R. 7.1(b)(2)(A), moves to dismiss all claims in this case.

The Court does not have subject matter jurisdiction of this case. Fed. R. Civ. P. 12(b)(1). For purposes of diversity of citizenship, the original jurisdiction of the federal district courts occurs “where the matter in controversy exceeds the sum or value of \$75,000 . . . and is between citizens of different States.” 28 U.S.C. § 1332(a)(1). Plaintiff was a citizen of the State of Wyoming at the time of filing the Complaint, with the intent to remain in the State of Wyoming. Defendant Wyoming Medical Center is also a citizen of Wyoming. Therefore, complete diversity does not exist for purposes of federal jurisdiction.

Plaintiff failed to effect sufficient service of process on Wyoming Medical Center, a Wyoming corporation. Fed. R. Civ. P. 12(b)(5); Fed. R. Civ. P. 4(h) (“serving a corporation”). Serving an employee of a corporation who is not authorized to act as an agent for process, rather than an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process, is insufficient under the Federal Rules of Civil Procedure and the Wyoming Rules of Civil Procedure. Fed. R. Civ. P. 4(h); *see also* W.R.C.P. 4(d)(4). Plaintiff did not serve any of Wyoming Medical Center’s authorized agents for process. Dismissal is therefore proper. Fed. R. Civ. P. 12(b)(5).

For these reasons, WMC moves this Court for an order dismissing Plaintiff’s claims. A brief in support of this motion is filed contemporaneously herewith, together with a proposed order for the Court.

Respectfully submitted this 31st day of July, 2014.

WHITE AND STEELE, P.C.

s/Lena K. Moeller

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed with the Clerk of Court on the 31st day of July, 2014, using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Brian Ulmer III, Esq.

Lena Moeller, Esq.

Jeff Brinkerhoff, Esq.

s/Lena K. Moeller
For White and Steele